

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF RHODE ISLAND

IN RE:

Clara Akalarian

HSBC Bank USA, National Association as  
Trustee for Nomura Asset-Backed Certificate  
Series, 2006-AF1,

VS.

Clara Akalarian

CHAPTER 7  
CASE NO. 09-12681-ANV

MOTION FOR RELIEF FROM STAY AND MEMORANDUM IN SUPPORT THEREOF

To the Honorable Arthur N. Votolato:

HSBC Bank USA, National Association as Trustee for Nomura Asset-Backed Certificate Series, 2006-AF1, your moving party in the within Motion, respectfully represents:

1. The movant has a mailing address of 1 Home Campus, MAC#x2501-01D, Des Moines, IA 50328.
2. The debtor, Clara Akalarian, has a mailing address of 793 Namquid Drive, Warwick, RI 02888.
3. On July 9, 2009, the debtor filed a petition under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Rhode Island.
4. The movant is the holder of a first mortgage on real estate in the original amount of \$176,000.00 given by Clara Akalarian to Mortgage Electronic Registration Systems, Inc. on or about April 27, 2006. Said mortgage is recorded with the Warwick Land Records at Book 6156, Page 145 and covers the premises located at 14 Marine Avenue, Warwick, RI 02888.
5. Said mortgage secures a note given by Clara Akalarian to Nation One Mortgage Company, Inc. in the original amount of \$176,000.00.

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6. The mortgage was assigned from Mortgage Electronic Registration Systems, Inc. to the movant.
7. As of August 7, 2009, approximately \$215,631.88 in principal, interest, late fees and other charges was due with regard to the note and mortgage. Additionally, reasonable attorney's fees and costs have accrued as a result of this motion.
8. There are the following encumbrances on the property:

<u>Name of Creditor</u>	<u>Type of Lien</u>	<u>Amount Owed</u>
HSBC Bank USA, National Association as Trustee for Nomura Asset-Backed Certificate Series, 2006-AF1	First Mortgage	\$215,631.88
Domestic Bank	Second Mortgage	\$230,850.28
Total Secured Encumbrances:		\$446,482.16

9. According to the debtor's schedules, the fair market value of the subject property is \$222,300.00.
10. The note and mortgage are in default for the December 1, 2007 payment and all payments thereafter, plus reasonable attorney's fees and costs and other charges incurred by the movant.
11. The movant seeks relief from stay as a secured creditor to enforce its rights under its loan documents and applicable law. In support thereof, the movant states that it is entitled to relief:
  - I. Pursuant to 11 U.S.C. 362 (d)(1) for cause on the basis that the debtor is in default on said contractual obligations.
  - II. Pursuant to 11 U.S.C. 362 (d)(2) on the basis that there is no equity in the subject

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property and, there being no reorganization in prospect, the property is not necessary for effective reorganization.

WHEREFORE, the movant prays that it, and its successors and/or assigns, be granted relief from the automatic stay for the purpose of: (i) exercising its rights under its agreements with the debtor and under applicable law, including, without limitation, taking possession of the mortgaged premises and/or foreclosing or accepting a deed in lieu of foreclosure of its mortgage on said premises, and bringing such actions, including, without limitation, eviction proceedings, as are permissible by law; (ii) the Court waive the provisions of F.R.B.P. 4001 (a)(3); and (iii) the Court order such other and further relief as may be just and proper.

Respectfully submitted,

HSBC Bank USA, National Association as Trustee  
for Nomura Asset-Backed Certificate Series, 2006-  
AF1,  
By its Attorney

/s/ Elizabeth A. Lonardo  
Elizabeth A Lonardo, Esquire  
RI #7714  
HARMON LAW OFFICES, P.C.  
P.O. Box 610345  
Newton Highlands, MA 02461-0345  
781-292-3900  
617-243-4049 (fax)  
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Dated: August 7, 2009

**Within ten (10) days after service as evidenced by the certification and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Bankruptcy Court Clerk's Office, 380 Westminster Mall, 6th Floor,**

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**Providence, RI 02903, (401) 626-3100. If no objection or other response is timely filed within the time allowed herein, the paper will be deemed unopposed and will be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise.**

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CERTIFICATE OF SERVICE

I, Elizabeth A. Lonardo, Esquire, state that on August 7, 2009, I electronically filed the foregoing Motion for Relief from Stay and Proposed Order with the United States Bankruptcy Court for the District of Rhode Island using the CM/ECF System. I served the foregoing document on the following CM/ECF participants:

Gary L. Donahue, Esquire, Assistant U.S. Trustee  
Andrew S. Richardson, Esquire, Chapter 7 Trustee  
Keven A. McKenna, Esquire for the Debtor  
Raymonde C. Pelote, Esquire for Rockland Trust Company

I certify that I have mailed by first class mail, postage prepaid the documents electronically filed with the Court on the following non CM/ECF participants:

/s/ Elizabeth A. Lonardo  
Elizabeth A. Lonardo, Esquire  
RI# 7714

Clara Akalarian  
793 Namquid Drive  
Warwick, RI 02888

Domestic Bank  
815 Reservoir Avenue  
Cranston, RI 02910

Recovery Management Systems Corp.  
25 S.E. 2nd Avenue, Suite 120  
Miami, FL 33131

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